

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
ERIC AARON LIGHTER,  
Defendant.

Case No. [5:05-cr-00215-EJD](#)

**ORDER AFTER HEARING TO  
DETERMINE DEFENDANT'S  
COMPETENCY; REFERRAL FOR  
RISK ASSESSMENT PURSUANT TO 18  
U.S.C. §§ 4241 AND 4246**

Defendant Eric Aaron Lighter ("Defendant") was convicted on December 20, 2011, of eight counts of wire fraud in violation of 18 U.S.C. § 1343, three counts of witness tampering in violation of 18 U.S.C. § 1512, three counts of blackmail in violation of 18 U.S.C. § 1873, and one count each of conspiracy to defraud the United States, conspiracy to commit wire fraud, and conspiracy to commit blackmail and witness tampering, all in violation of 18 U.S.C. § 371. See Docket Item No. 244.

On September 10, 2014, the court held an evidentiary hearing pursuant to 18 U.S.C. § 4241 to determine Defendant's competency to be sentenced. After hearing and considering the testimony of Dr. John Chamberlain as well as the arguments of counsel, the court found by a preponderance of the evidence that Defendant was presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he was unable to understand the nature and consequences of the proceedings against him and to assist properly in his defense. The court then committed Defendant pursuant to 18 U.S.C. §§ 4241(d)(1) and (d)(2) to the custody of the Attorney General to determine whether there is substantial probability that in the foreseeable

1 future Defendant would attain the capacity to permit the sentencing proceedings to go forward.

2 As a result of the commitment, the court received a Forensic Evaluation of the Defendant,  
3 completed by the Federal Medical Center in Butner, North Carolina, and scheduled a hearing to  
4 assess Defendant's mental condition.

5 The court held the competency hearing on April 28, 2015, at which the Government,  
6 Defendant and his counsel appeared. The court heard testimony from the Psychologist who  
7 evaluated Defendant at the Butner facility.

8 Having now considered the totality of the evidence and the arguments of counsel, the court  
9 finds and orders as follows:


10 1. The court again finds by a preponderance of the evidence that Defendant is  
11 presently suffering from a mental disease or defect rendering him mentally incompetent to the  
12 extent that he is unable to understand the nature and consequences of the proceedings against him  
13 and to assist properly in his defense. The evidence presented at the April 28th hearing provides  
14 ample support for the court's finding, and the court will not disturb its previous order.

15 2. Pursuant to 18 U.S.C. § 4241(d), the court orders Defendant to remain in the  
16 custody of the Attorney General, and that he be evaluated and a report prepared and filed pursuant  
17 to 18 U.S.C. § 4246(b) addressing whether Defendant's release would create a substantial risk of  
18 bodily injury to another person or serious damage to property of another. The court will schedule  
19 a hearing under 18 U.S.C. § 4246(c) upon receipt of the report.

20 3. The court schedules this case for a Status Conference at **1:30 p.m. on June 1,**  
21 **2015.** Defendant's presence is excused for that appearance, and the Government may appear  
22 telephonically.

23 **IT IS SO ORDERED.**

24 Dated: April 30, 2015

25   
26 EDWARD J. DAVILA  
27 United States District Judge